

CONCLUSION

N.J.A.C. 4A:4-1.10(c) provides that when a regular appointment is made, a retroactive appointment date may be ordered due to administrative error, administrative delay or other good cause. Generally, this unique remedy has been reserved for two particular situations. First, and germane to this matter, retroactive appointment dates have been granted in circumstances in which an employee was actually serving in and performing the duties of a title, but, due to some error or other good cause, his or her attainment of permanent status was delayed or hindered. The second situation in which an employee may be awarded a retroactive date of permanent appointment is where the name of an employee, whose appointment would have otherwise been mandated, was improperly removed from or bypassed on an eligible list, thereby preventing the appointment.

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional announcement by the closing date.

In the instant matter, Weinreich's provisional appointment as a Road Repairer 2 pending qualifying examination was effective January 18, 2017. For Weinreich to have been eligible for the subject examination, he needed to have passed the qualifying examination one year prior to the subject examination's August 21, 2018 closing date. However, the record is unclear as to why the qualifying examination was not given within the seven months prior to the closing date. Therefore, absent this administrative delay in the qualifying examination, it is more than likely that Weinreich would have achieved permanent status prior to the closing date. Accordingly, the Commission finds good cause to grant Weinreich's retroactive date of permanent appointment as a Road Repairer 2, effective August 20, 2017.¹ Further, the Commission finds that Weinreich shall be admitted to the subject examination as he now has one year of continuous permanent service in the title to which the examination was open based on this retroactive appointment date.

This determination is limited to the instant matter and does not provide precedent in any other matter.

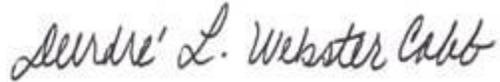
ORDER

Therefore, it is ordered that this appeal be granted and William Weinreich's application shall be processed for prospective employment opportunities only. Additionally, the permanent appointment of Weinreich to the title of Road Repairer 2 shall be recorded as August 20, 2017, for salary step and seniority-based purposes.

¹ Moreover, as the appointing authority supports this appeal and the appellant has successfully served as a Road Repairer 2 for nearly two years, the customary three-month working test period is deemed to have been completed.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 16th DAY OF JANUARY, 2019



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